

## REMARKS

In accordance with the forgoing, claims 1, 27 and 31 have been amended. Claims 16 – 19 and 21 – 26 have been allowed. Support for the amendments to the claims may be found, for example, at paragraphs [0048] and [0049] of the application. Claims 1 – 4, 6 – 10, 16 – 19 and 21 – 34 are pending in this application.

### **Rejections Under 35 U.S.C. § 102 and Under 35 U.S.C. § 103**

Claims 1 – 3, 6 – 9, 27 – 29 and 31 – 33 have been rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0087091 ("Koyrakh '091"). Claims 3, 4, 29, 30, 33 and 34 have been rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0087091 ("Koyrakh '091"). The rejections are respectfully traversed.

The response to the Office Action mailed November 13, 2008 filed by applicants on October 9, 2008 is incorporated herein by reference in it's entirety.

Independent claims 1, 27 and 31 have been amended to more clearly set forth waiting until there are first consecutive events of the plurality of events having first characteristics, and identifying, in response to the first consecutive events of the plurality of events having first characteristics, a predetermined number of events of the plurality of events subsequent to the first consecutive events having second characteristics as first selected events.

While Koyrakh discloses analyzing events to determine whether events have RR intervals greater than 600 ms, and if one event satisfies the threshold and a next event will then be evaluated, Koyrakh does not teach or suggest waiting until there are first consecutive events of the plurality of events having first characteristics, and identifying, in response to the first consecutive events of the plurality of events having first characteristics, a predetermined number of events of the plurality of events subsequent to the first consecutive events having

second characteristics as first selected events, as set forth in independent claims 1, 27 and 31. Therefore, applicants respectfully assert that claims 1, 27 and 31 are patentably distinguishable from Koyrakh and withdrawal of the rejections is respectfully requested.

Claims 2, 3 and 6 – 9 depend from claim 1, claims 28 and 29 depend from claim 27, and claims 32 and 33 depend from claim 31, and as such incorporate all of the subject matter of the claims from which they depend. In addition, claims 2, 3, 6 – 9, 28, 29, 32 and 33 recite additional patentable subject matter. Because the rejection of claims 1, 27 and 31 is improper, and because claims 2, 3, 6 – 9, 28, 29, 32 and 33 recite additional patentable subject matter, it is respectfully submitted that the rejection of claims 2, 3, 6 – 9, 28, 29, 32 and 33 under 35 USC § 102(b) as being anticipated by Koyrakh '091 is improper for the same reasons and should be withdrawn.

#### **Allowable Subject Matter**

Applicant notes with appreciation the indication of allowable subject matter in claims 16 – 19 and 21 – 26.

#### **Summary**

In view of the arguments presented, claims 1 – 4, 6 – 10, 16 – 19 and 21 – 34 should be allowable. This application should be in condition for allowance and a notice to that effect is earnestly solicited.

Respectfully Submitted,

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